## Before the FEDERAL COMMUNICATIONS COMMISSION Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of

Closed Captioning and Video Description of Video Programming

Implementation of Section 305 of the Telecommunications Act of 1996

Video Programming Accessibility

MM Docket No. 95-176

### COMMENTS OF THREE ANGELS BROADCASTING NETWORK, INC.

On behalf of Three Angels Broadcasting Network, Inc. ("3ABN"), we hereby submit these comments in response to the Commission's *Notice of Proposed Rule Making* ("*NPRM*") in the captioned proceeding, which proposes ultimately to require closed captioning of all programming by "providers" of video programming, which includes the low power television ("LPTV") service provided by 3ABN. Although Section 713 of the Communications Act, 47 U.S.C. § 613, permits the Commission to exempt "services for which the Commission has determined that the provision of closed captioning would be economically burdensome to the provider or owner of such programming," no such exemption has yet been proposed for LPTV. It is imperative that the Commission recognize the hardship and undue burden that would inevitably result from applying the closed captioning requirements to the LPTV industry in general and to 3ABN in particular.

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3ABN, which is headquartered in Thompsonville, Illinois, is the broadcast center for the worldwide ministry of the Seventh day Adventist Church. Its programming, which originates from its Thompsonville, Illinois headquarters, is transmitted via satellite to nearly 100 owned or affiliated LPTV stations nationwide. *See* Exhibit I. 3ABN's programming is also carried by 14 cable systems in nine different states (and in Canada) and by schools and hospitals located throughout the United States. *See* Exhibit II. All of 3ABN's owned LPTV stations and most of its affiliates are operated on an unmanned, remote control basis, and are incapable of local origination.

3ABN's LPTV network, which has been operational for more than 11 years, brings much more than religious programming to its many viewers. Its unique programming includes health-related and educational programs, children's programs, documentaries, drama, entertainment and multilingual programming. See Exhibit III. 3ABN provides programming to its LPTV affiliates 24 hours per day, of which approximately eight hours per day is new programming, including a live weekly two hour show. Many of 3ABN's stations serve minorities and communities not otherwise served by any other full power or LPTV stations. 3ABN receives literally thousands of letters each month from viewers whose lives have been touched and improved by 3ABN's programming. Some of those letters come from alcohol and drug dependent persons and even from incarcerated persons who say that 3ABN has helped better their lives. Its programming is exactly the type of "niche" programming which led the Commission to claim that LPTV programming "is more than meeting its expectations." First Report and Order in MM Docket No. 93-114, 9 F.C.C. Rcd. 2555 ¶ 2 (1994).

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3ABN's unique programming clearly serves the public interest. Its programming costs, however, are met entirely from viewer contributions, which constitute 3ABN's lifeblood support. The tremendous costs of adding closed captioning to its programming would cripple, if not destroy, 3ABN and doubtless many other LPTV operations as well. It is inconceivable that the FCC would expect LPTV providers like 3ABN to bear the same closed captioning costs that can be borne by the major TV networks and studios. We hope that the failure to exempt LPTV from these requirements is merely an oversight that will be corrected in the Final Report and Order in this proceeding.

The Commission's closed captioning proposal, while unduly burdensome on LPTV in and of itself, cannot be analyzed in a vacuum. Rather, the Commission must recognize both the important nature and functions of LPTV as well as the deleterious effect of its various pending proposals which, while well intentioned, would inevitably destroy the LPTV industry if enacted.

Specifically, in the digital TV ("DTV") proceeding, the Commission is not only failing to award DTV channels to LPTV stations, but its current proposal would *eliminate* up to 45% of all existing LPTV stations. *See Sixth Further Notice of Proposed Rule Making* in MM Docket No. 87-268, FCC 96-317 ¶ 66 (released August 14, 1996). Undoubtedly, some (if not many) of 3ABN's stations would be among those eliminated by the Commission's DTV proposal. In addition to (and despite) the devastating effect of that proposal on the LPTV industry, the Commission has imposed emergency alert system ("EAS") requirements on the LPTV industry, requiring decoders at an estimated cost of at least \$3,000 per station. FCC Rule § 11.1, *et. seq.* These EAS requirements alone would cost 3ABN nearly \$250,000. Yet,

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these costs pale in comparison to the costs of imposing closed captioning requirements on all of 3ABN's programming, which would be transmitted to whichever LPTV stations are left standing following the outcome of the DTV proceeding.

The Commission estimates the costs of closed captioning to be anywhere from \$800 to \$2,500 per hour of programming and from \$120 to \$1,200 per hour of live programming (NPRM ¶¶ 18, 20). With eight hours of programming per day, the *minimum* cost of providing closed captioning to 3ABN's prerecorded programming would be \$6,400 per day, or more than \$2.33 million per year. If the higher figure is more accurate, the cost could exceed \$7.3 million per year! The additional cost of providing closed captioning to 3ABN's live programming would be anywhere from \$12,480 to \$124,800 per year. There is simply no way that 3ABN can absorb these costs. Its programming would cease to exist due solely to the undue regulatory burden imposed by the Commission in this proceeding.

The anomaly of subjecting the LPTV service to these obviously burdensome requirements cannot be overstressed. LPTV was established as a secondary service, and all LPTV stations are subject to being displaced by full power TV stations. Indeed, if the Commission's current DTV proposal remains intact, there will be a wholesale displacement of many LPTV stations. Unlike full power TV, which is subject to various public interest requirements and community service obligations, LPTV has heretofore been subject to no program content requirements. Thus, as the Commission has noted in other proceedings, the LPTV service has been a perfect vehicle for carriage of specialty programming and niche services that would not be appropriate or economically viable for full power TV. Since there are also no local origination or main studio requirements applicable to the LPTV service, the

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relatively low cost required to operate an LPTV station aids in furtherance of this type of service. Accordingly, LPTV stations have not only been able to provide specialty and niche programming, but have been able to provide programming to less populated areas that might otherwise be unable to support a full power station. In other words, it is clear that the LPTV service has served very valuable functions in furtherance of the public interest primarily because of the *lack* of program-related requirements imposed on that service, in contrast to those imposed requirements on full power stations.

The recent efforts of the Commission to begin imposing expensive and burdensome requirements on the LPTV service, like closed captioning, would only serve to undermine the purposes which the LPTV service has come to serve so well. It would be difficult, if not impossible, to continue providing specialty and niche programming and/or serving less populated areas if requirements imposed by the FCC make it too expensive to continue providing these services. While there is no question that the provision of closed captioning is a good thing with a noble purpose, it simply makes no sense to impose those requirements on the LPTV service, given the nature, functions, history and purpose of that service. Obviously, those LPTV operators who feel that closed captioning would be essential or useful to the purpose they already serve, and who can afford such luxuries, will undertake closed captioning on their own. Additionally, those LPTV stations that receive closed captioned programming from other sources will be carrying closed captioned programming as well.

In 3ABN's case, however, there is no other source to look to for the provision of closed captioning since nearly all of its programming is originally produced. Simply put,

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imposition of a closed captioning requirement on 3ABN would threaten its very existence. There are obviously thousands of viewers who depend on 3ABN's programming and gain much from it, many of whom cannot afford to financially support that programming. It would be counter to the Commission's objectives in establishing the LPTV service to impose closed captioning requirements upon it. Unless the Commission's ultimate goal is to destroy the LPTV service by imposing economically burdensome requirements upon it, the Commission must exempt the LPTV service from its proposed closed captioning requirements. If such an exemption is not granted, 3ABN will assuredly be back requesting a waiver once such requirements are imposed. It would be administratively more efficient and less costly to grant a blanket exemption to the LPTV service at this stage of the proceeding rather than to have to deal with numerous individual requests for waiver following implementation of the rules.

The legislative history of Section 713 clearly demonstrates that Congress intended that, in making exemption decisions, the Commission should consider: (1) the nature and cost of providing closed captions; (2) the financial resources of the programmer; and (3) the cost of the captioning, considering the relative size of the audience served or the audience share. House Report at 114-115.

In the *NPRM*, the Commission stated:

[w]e seek to establish a general classification or a number of general classifications for programming for which captioning would be economically burdensome. . . . In particular we seek comment on whether a definition of economic burden should be based on factors such as relative market size, degree of distribution, audience ratings or share, relative programming budgets or revenue base, . . . or a combination of factors.

NPRM¶ 71.

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The proposed exemption for LPTV is within the power granted to the Commission, consistent with Congressional intent, limited in scope, consistent with the public interest, and sound as a matter of policy and economic reality.

For the foregoing reasons, we respectfully request the Commission to exempt the LPTV service from its proposed closed captioning requirements.

Respectfully submitted,

THREE ANGELS BROADCASTING NETWORK, INC.

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## 3ABN 79 Downlinks

#### 10/24/96

City/State	Channel	Potential Viewers	City/State	Channel	Potential Viewers
Albuquerque, NM	Ch 17*	400,000 É	Little Rock, AR	Ch 55	250,000
Asheville, NC	Ch 41	150,000	Madison, WI	Ch 54	250,000
Battle Creek, Ml			Mayaguez, PR	Ch 67*	150,000
Bend, OR			Medford, OR	Ch 42*	160,000
Berrien Springs, Mi	Ch 25*	71,000		Ch 52*	
Boise, ID	Ch 25	200,000		Ch 56*	
Bozeman, MT	Ch 02*	22,660	Midland, TX	Ch 31	300,000
Brookings, OR	Ch 57	10,000	Minneapolis, MN	l Ch 69	. 2,000,000
Canyonville, OR	Ch 38	15,000		Ch 31	
Cave Junction, OR	Ch 61*	18,000	Moses Lake, WA	4 Ch 39	75,000
Cayman Islands	Ch 30*	1,000,000		Ch 11	
Champaign, IL	Ch 21	200,000		A Ch 21	
Charlotte, NC	Ch 34	400,000		Ch 05	
Chattanooga, TN				Ch 34	
Christmas Valley, (	DR Ch 17	5,000	Quincy, IL	Ch 40	120,000
Clarkston, WA		-		Ch 34*	
Collegedale, TN				Ch 04	
Coos Bay, OR	Ch 67*	35,000		Ch 54	
Delta Junction, AK				Ch 21	
Dillingham, AK				R Ch 67*	
Durham, NC	Ch 56	450,000		Ch 57*	
Florence, OR				4 Ch 27*	
Glennallen, AK				Ch 28	
Glide, OR				JT Ch 26*	
Grand Rapids, MI		•		Ch 21	
Grants Pass, OR.		•		Ch 34	
Grants Pass, OR.				e, MI Ch 67	
Green Bay, WI				Ch 68	
Hemet, CA			Shreveport, LA	Ch 57	200,000
Hermiston, OR			Spokane, WA	Ch 63*	500,000
Huntsville, AL				Ch 48	
Jacksonville, FL		- •		Ch 52	
John Day, OR			Tulsa, OK	Ch 69	600,000
Johnston City, IL	Ch 17	110,000		Ch 14	
Klamath Falls, OF					
Knoxville, TN				A Ch 22*	
La Grande, OR				A Ch 27*	
Lakeview, OR				'A Ch 45*	
Lawton, OK Lincoln, NE	UN 15	100,000	takima, WA	Ch 58	30,000
LINCON, NE	Un 31	200,000		*denote	es affiliate station

\*denotes affiliate station

# Cable Systems Carrying Three Angels Broadcasting Network

#### **ARIZONA**

Satellite Management - Sun Village, Surprise

BELIZE, Country of Belize Mission of Seventh-day Adventists

#### **CALIFORNIA**

Comcast Cable - Grand Terrace and Loma Linda

Cox Cable - Eureka

Marks Cablevision - Gerber, Hayfork, Lewiston, Los Molinos, Palo Cedro, Tehama and Weaverville.

OPTEL - Loma Linda Springs Apartments

Tuolumne County Community Cable - Sonora

CANADA, Country of Gretsinger Cable Vision - Spences' Bridge B.C.

#### KENTUCKY

The Perfect TV Company - Manchester

#### **MASSACHUSETTS**

Continental - Bolton, Clinton, South Lancaster and Sterling

WCCA-Cable 13 - Worcester

#### **NEVADA**

Nevada Cable - Ely, Eureka, McGill and Ruth

#### **TEXAS**

Harron Cable - Keene

#### UTAH

Nevada Cable - Fillmore, Milford, Minersville and Wendover

#### HOSPITALS AND INSTITUTIONS

Adventist School of Salisbury North Carolina Florida Hospital (Orlando) Forest Glen Senior Residence (Canyonville, OR) Loma Linda Medical Center and School New England Memorial Hospital White Memorial Medical Center

#### CHILD/FAMILY DEVELOPMENT & EDUCATION

Family Matters - Dr. Kay Kuzma presents two series, the first is designed to help parents with discipline of children, the second is designed to help in selecting a life partner.

Home Grown Kids - Dr. Raymond Moore hosts a series on homeschooling, including several programs that deal with commonly asked questions.

Thinking About Home - An on-going series dealing with family issues and family spiritual well being.

#### CHILDREN'S PROGRAMMING

Janice's Attic - A weekly kids program with Janice Smith and her friends. The programs feature music, stories, interviews, and lessons drawn from the Bible.

Witnesses for Jesus - A program presented by kids for kids. Sara Matthews tells of the adventures of the apostles and early Christians, while other kids present musical features.

#### **DOCUMENTARIES/DRAMA**

Digging Up The Past - Australian series with Host David Downs, featuring trips to famous archeological sites in the Holyland.

Keepers Of The Flame - Australian production on the Great Advent Movement and the life of Ellen G. White.

Westbrook Hospital - A production of *Faith For Today*, this hospital drama applies Christian principles to everyday living.

Special Feature - Programs featured include: Esther, Mary's Song, Tony Mavrakos' Conversion Story and Mending Broken People: The 3ABN Story.

#### HEALTH

AIDS...What You Need to Know - A half hour program hosted by Dr. Lorraine Day.

At Home with the Benton Sisters - A weekly half hour hosted by teens for teens. This program features inspiration, music, and vegetarian cooking.

Cooking By The Book - Marcella Lynch hosts this series and shows you how to prepare delicious vegetarian cuisine.

Food For Thought - This second series by Marcella Lynch, also features many favorite dishes in vegetarian cuisine.

Help Yourself To Health - Dr. Agatha Thrash deals with subjects from strengthening your immune system to grief recovery. Also presented are many home remedies.

Homeschool Of Health - A series of lectures by various speakers and doctors on healthful living.

Newstart Cooking - Dottie Allen hosts a series of programs which present healthful living and vegetarian cuisine.

Smoking Clinic - Dr. Arthur Weaver has hosted 5 Day Stop Smoking Clinics for many years, and this series takes you along step by step.

Viewpoint - This program deals with health issues relating especially to alcohol and tobacco consumption.

Wonderfully Made - Various speakers and doctors speak on different health-related topics.

#### <u>INTERVIEWS</u>

3ABN Presents - Hosted by Danny & Linda Shelton, this is the flagship program for Three Angels Broadcasting Network. Their guests come from all over the US and other countries and share their stories of how God has moved in their lives.

3ABN Presents LIVE - This is a 2 hour version of 3ABN Presents, aired LIVE on Thursday nights and repeated on Friday and Sunday.

Drugs Close To Home - Hosted by Cliff and Freddie Harris, this program features personal accounts of people whose lives have been changed from their former drug addictions, and interviews with other guests.

Power To Cope - Various guests share how they've coped with difficult situations in their life with Host Juanita Kretschmar in New York.

Talking About Jesus - A series dealing with the life of Christ.

United Prison Ministries International - Hosted by Richard Bland, this program shows how God works on the lives of inmates across the US, in Russia and Romania.

When God's People Pray - Ruthie Jacobsen hosts this series of programs where a variety of guests share how God has worked in their lives, especially in the answering of prayers.

#### **MUSIC**

An Evening With... - A full half hour with one artist.

Melody From My Heart - A half hour program with a variety of singers and musicians.

#### **NEWS**

Adventures in Missions - Brian Dunne interviews Frank Stanyer in this series, giving updates from the mission fields.

ADRA's World - This program shows the work of an international organization, dedicated to worldwide relief and development. Stories include hurricane aftermath and building new churches.

Global Mission Front Line - A program hosted by Shirley Burton about the missionary work being done around the world by the Seventh-day Adventist church through its Global Mission endeavors.

#### PREACHING/TEACHING

3ABN On Location - Programs videotaped on location across the US and abroad.

Amazing Love - A series of sermons videotaped on location in South Lancaster, Massachusetts.

Bible Answers - Hosted by Evangelist Doug Batchelor, this on-going series seeks to answer viewer questions using only the Bible for answers.

Breath Of Life - Pastor Charles Brooks is featured in this program as he travels around the country and abroad.

Central Worship Service - Church Services from the Sacramento Central Seventh-day Adventist Church, with Pastor Doug Batchelor.

Christian Concerns - A continuing series with various speakers presenting current concerns for Christians.

Closer Look, A - This program features two series. The first focuses on the beliefs of the Seventh-day Adventist church and is hosted by Rick Odle. The second series focuses on the book of Revelation with Ty Gibson and James Rafferty as hosts.

Clairemont Church Service - Church Services with the Clairemont Seventh-day Adventist Church in San Diego, California, with Pastor Ted Tessner.

Dimensions of Prophecy for Today - Kenneth Cox presents a powerful message during this crusade, originally taped in Australia.

Discover Jesus - A ten part series with Mark Finley. Mark presents exciting topics in a seminar form.

Dynamics in the Science of Prayer - Pastor Tyrone Phillips brings a whole new perspective to prayer through this in-depth series.

Genesis to Revelation Seminar - A series hosted by George Knowles going through the Bible from Genesis to Revelation.

Give Me The Bible - Various pastors present sermons on a variety of subjects, including the book of Hebrews and some of the "character classics" of the Bible."

Glendale Church Service - Church services from the Community Adventist Fellowship in Glendale, California, with Pastor John Carter.

Gospel In Symbols - Pastor Ted Tessner looks at the symbols of the Bible.

Holy Spirit Series - This series looks at the Holy Spirit's work in our lives.

It Is Written - A well known religious telecast begun by George Vandeman more than 40 years ago. Hosted by new speaker/director, Mark Finley.

New Perceptions - Church services from the Pioneer Memorial Church in Berrien Springs, Michigan, with Pastor Dwight Nelson.

Power For Successful Living - Series with Evangelist Tony Mavrakos.

Revival Time Ministries - Tony Mavrakos hosts this series on revival.

Sacramento Central Sabbath School - Bible lessons from the Sacramento Central SDA Church, pastored by Doug Batchelor.

Walking with the Master - This series, hosted by Pastor James Micheff, is designed to help viewers find a closer walk with Jesus Christ.

Words of Life - Claudia Rose reads selected passages of the Bible verse by verse.

#### **PROPHECY**

Prophecy Seminar - A half-hour program with Dr. William Register, focusing on Bible prophecy, especially in the book of Daniel.

Israel of the Alps - A three part series on how the Waldensians in central Europe fulfilled Bible prophecy.

#### VARIETY

A Better Way of Life - Join Dwight and Deb Hall as they bring you into their home to hear a special message for those preparing to be end-time servants of the Lord.

It's All About Love - A one-hour program with Ullanda Innocent. In each episode, this program has a guest interview, a few songs, devotional thoughts and a segment with "Mr. Innocent" for young people relating health & fitness to the christian life.

#### **SPANISH**

Aprendiendo a Vivir Conociendo La Verdad La Fe De Jesus Escrito Está El Israel de los Alpes